

**SIEMENS****FACSIMILE COVER SHEET****In the UNITED STATES PATENT AND TRADEMARK OFFICE****RECEIVED**

JAN. 21 2009

PCT LEGAL  
ADMINISTRATION

First Named Inventor: Wolfgang Klumpp

Application No.: 10/550,781

Atty. Docket No. 2003P04656WOUS

Filed: September 27, 2005

Title: TEMPERATURE COMPENSATION ELEMENT FOR A CONNECTION UNIT

Examiner: Not Yet Assigned

Art Unit: Not Yet Assigned

**► FACSIMILE ATTN TO: RAFAEL BACARES, PCT LEGAL EXAMINER  
PCT LEGAL OFFICE****FAX NO.: 571-273-0459****RESPONSE TO DECISION ON PETITION UNDER 37 CFR 1.181****Certificate of Transmission under 37 CFR 1.8**I hereby certify that this correspondence is being facsimile transmitted to the PCT Legal Office at the Patent and Trademark Office on January 21, 2009.

Ann Hickey

Typed or printed name of person signing Certificate

Note: Each paper must have its own certificate of transmission, or this certificate must identify each submitted paper.

- This facsimile cover sheet which includes a Certificate of Transmission under 37 CFR 1.8 (1 pg)
- Supplemental Request to Withdraw the Holding of Abandonment (2 pgs.);
- Declaration of Ann Hickey in Support of Request to Withdraw the Holding of Abandonment (2 pgs);
- Copy of Facsimile Cover Sheet confirming receipt by the USPTO (1 pg.);
- Declaration and Power of Attorney for Patent Application (4 pgs) and
- Copy of Decision on Petition Under 37 CFR 1.18 mailed November 20, 2008 (3 pgs.)

**Number of pages being transmitted (including this cover sheet): 13 pgs**

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**Siemens Corporation**Legal and Intellectual Property  
Department4400 Alafaya Trail  
Orlando Florida 32826Tel: 407-736-2472  
FAX: 407-736-6440

**SIEMENS**

PATENT  
Attorney Docket No. 2003P04656WOUS

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of:

|             |  |   |                                  |
|-------------|--|---|----------------------------------|
| Inventor:   | Wolfgang Klumpp, et al.                                | ) | Group Art Unit: Not Yet Assigned |
|             |  | ) |                                  |
| Serial No.: | 10/550,781   | ) | Examiner: Not Yet Assigned       |
|             |  | ) |                                  |
| Filed:      | September 27, 2005                                     | ) | Confirmation No: 1873            |
| Title:      | TEMPERATURE COMPENSATION ELEMENT FOR A CONNECTION UNIT |   |                                  |

**Mail Stop PCT LEGAL**  
**Commissioner for Patents**  
**P.O. Box 1450**  
**Alexandria, VA 22313-1450**

Sir:

**SUPPLEMENTAL REQUEST TO WITHDRAW**  
**THE HOLDING OF ABANDONMENT**

In accordance with 37 CFR 1.181(a) and 1.8(b), Applicants respectfully request the Commissioner to withdraw the holding of abandonment on grounds that a complete reply to the Response to Notification of Missing Requirements within the time period specified in the Notification was filed with the USPTO.

On August 29, 2008, Office of PCT Legal Affairs Legal Examiner Rafael Bacares dismissed without prejudice Applicants' previously filed request to withdraw the holding of abandonment dated 26 June 2008. Mr. Bacares reasoned that Applicant did not satisfy requirement (2) of 37 CFR 1.8(b) because "the present petition includes a copy of the

**Serial No. 10/550,781**  
**Atty. Doc. No. 2003P04656WOUS**

previously transmitted correspondence and certificate of transmission, however, no copy of the executed declaration filed on August 7, 2006 has been filed."

In response, Applicants submit a copy of the executed declaration filed on August 7, 2006 by the person who executed the Certificate of Transmission under 37 CFR 1.8 on the response materials, Ann Hickey, as indicated by the Certificate of Transmission.

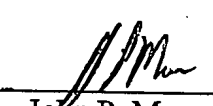
On November 20, 2008, Office of PCT Legal Affairs Legal Examiner Rafael Bacares dismissed without prejudice Applicants' previously filed request to withdraw the holding of abandonment dated 08 September 2008. Mr. Bacares reasoned that Applicant did not satisfy requirement (3) of 37 CFR 1.8(b) because "Applicants (Mr. Musone) submit a copy of the executed declaration filed on August 7, 2006 by the person (Ann Hickey) who executed the Certificate of Transmission under 37 CFR 1.8". Both a Declaration of Ann Hickey and a copy of the facsimile report confirming receipt by the USPTO has been submitted previously and is being re-submitted.

Reconsideration and withdrawal of the holding of abandonment is therefore respectfully requested.

The Commissioner is hereby authorized to charge any appropriate fees due in connection with this paper, or credit any overpayments to Deposit Account No. 19-2179.

Respectfully submitted,

Dated: 1/21/09

By:   
John P. Musone  
Registration No. 44,961  
(407) 736-6449

Siemens Corporation  
Intellectual Property Department  
170 Wood Avenue South  
Iselin, New Jersey 08830

**SIEMENS**PATENT  
Attorney Docket No. 2003P04656WOUS**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of:

|             |   |   |                                  |
|-------------|---|---|----------------------------------|
| Inventor:   | Wolfgang Klumpp, et al.                                   | ) | Group Art Unit: Not Yet Assigned |
|             |   | ) |                                  |
| Serial No.: | 10/550,781  | ) | Examiner: Not Yet Assigned       |
|             |   | ) |                                  |
| Filed:      | September 27, 2005  | ) | Confirmation No: 1873            |
| Title:      | TEMPERATURE COMPENSATION ELEMENT FOR A<br>CONNECTION UNIT |   |                                  |

Mail Stop PCT LEGAL  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**DECLARATION OF ANN HICKEY IN SUPPORT OF  
REQUEST TO WITHDRAW THE HOLDING OF ABANDONMENT**

I, Ann Hickey, do hereby declare as follows:

1. I am an Intellectual Property Specialist that prepares and files documents on behalf of Siemens Aktiengesellschaft and its corporate affiliates. I currently assist Patent Attorney John P. Musone who is of record for the above-referenced patent application.
2. On August 7, 2006, prior to personally facsimile filing the Response To Notification of Missing Requirements signed by John P. Musone, I signed the Certification of Mailing stating "I hereby certify that this correspondence is being

**Serial No. 10/550,781**  
**Atty. Doc. No. 2003P04656WOUS**

facsimile transmitted to 703-305-3230 at the Patent and Trademark Office on August 7, 2006." I then personally sent the Response, via facsimile, to the attention of Deborah D. Williams. Attached is a copy of the facsimile confirming receipt by the USPTO of this transmission.

3. I declare that all statements, made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with knowledge that willful, false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful, false statements may jeopardize the validity of the application or patent issuing therefrom.

Respectfully submitted,

Dated: 1/16/2009

By: Ann Hickey  
Ann Hickey

\* \* \* COMMUNICATION RESULT REPORT ( AUG. 7. 2006 3:06PM ) \* \* \*

FAX HEADER 1: 407-736-6440  
FAX HEADER 2:TRANSMITTED/STORED : AUG. 7. 2006 3:01PM  
FILE MODE OPTION

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PAGE

178 MEMORY TX

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9/9

REASON FOR ERROR OR LINE FAIL  
E-1) NO ANSWERE-2) BUSY  
E-3) NO FACSIMILE CONNECTION**SIEMENS****FACSIMILE COVER SHEET**In the UNITED STATES PATENT AND TRADEMARK OFFICE

First Named Inventor: Wolfgang Klumpp

Application No.: 10/530,781

Atty. Docket No. 2003P04656WOUS

Filed: September 27, 2005

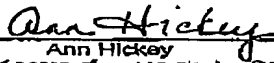
Title: TEMPERATURE COMPENSATION ELEMENT FOR A CONNECTION UNIT

Examiner: Not Yet Assigned

Art Unit: Not Yet Assigned

► FACSIMILE ATTN TO: DEBORAH D. WILLIAMS

FAX NO.: 703-305-3230

RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE  
UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EQ/US)**Certificate of Transmission under 37 CFR 1.8**I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office on  
August 7, 2006.  
Ann Hickey

Typed or printed name of person signing Certificate

Note: Each paper must have its own certificate of transmission, or this certificate must identify each submitted paper.

- This facsimile cover sheet which includes a Certificate of Transmission under 37 CFR 1.8 (1 pg)
- Response to Notification of Missing Requirements under 35 U.S.C. 371 in the United States Designated/Elected Office bearing "date mailed" of 08/20/2006 (2 pgs, original + 1 copy);
- Copy of Notification of Missing Requirements under 35 U.S.C. 371 in the United States Designated/Elected Office to be returned with response (2 pgs);
- Declaration for Patent Application, Power of Attorney & Designation of Correspondence Address (4 pgs)

**Number of pages being transmitted (including this cover sheet): 9 pgs**

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**Siemens Corporation**Legal and Intellectual Property  
Department4400 Alafaya Trail  
Orlando Florida 32826Tel: 407-736-2472  
FAX: 407-736-6440

# Declaration and Power of Attorney For Patent Application

## Erklärung Für Patentanmeldungen Mit Vollmacht

### German Language Declaration

Als nachstehend benannter Erfinder erkläre ich hiermit an Eides statt:

dass mein Wohnsitz, meine Postanschrift, und meine Staatsangehörigkeit den im Nachstehenden nach meinem Namen aufgeführten Angaben entsprechen, dass ich, nach bestem Wissen der ursprüngliche, erste und alleinige Erfinder (falls nachstehend nur ein Name angegeben ist) oder ein ursprünglicher, erster und Miterfinder (falls nachstehend mehrere Namen aufgeführt sind) des Gegenstandes bin, für den dieser Antrag gestellt wird und für den ein Patent für die Erfindung mit dem Titel beantragt wird:

Temperaturausgleichselement für eine Anschlusseinheit

deren Beschreibung hier beigelegt ist, es sei denn (in diesem Falle Zutreffendes bitte ankreuzen), diese Erfindung

- ☒ wurde angemeldet am 09.27.2005  
unter der US-Anmeldenummer 10/550.781 oder  
unter der Internationalen Anmeldenummer im  
Rahmen des Vertrags über die  
Zusammenarbeit auf dem Gebiet des  
Patentwesens (PCT) \_\_\_\_\_ und am \_\_\_\_\_  
abgeändert (falls zutreffend).

Ich bestätige hiermit, dass ich den Inhalt der obigen Patentanmeldung einschließlich der Ansprüche, die eventuell durch einen Zusatzantrag wie oben erwähnt abgeändert wurde, durchgesehen und verstanden habe.

Ich erkenne meine Pflicht zur Offenbarung jeglicher Informationen an, die zur Prüfung der Patentfähigkeit in Einklang mit Titel 37, Code of Federal Regulations, § 1.56 von Belang sind.

Ich beanspruche hiermit ausländische Prioritätsvorteile gemäß Title 35, United States Code, § US-Code, § 119 (a)-(d), bzw. § 365(b) aller unten aufgeführten Auslandsanmeldungen für Patente oder Erfinderurkunden, oder § 365(a) aller PCT internationalen Anmeldungen, welche wenigstens ein Land außer den Vereinigten Staaten von Amerika benennen, und habe nachstehend durch ankreuzen sämtliche Auslandsanmeldungen für Patente bzw. Erfinderurkunden oder PCT Internationale Anmeldungen angegeben, deren Anmeldetag dem der Anmeldung, für welche Priorität beansprucht wird, vorangeht.

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name,

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled

Temperature Compensation Element for a Connection Unit

the specification of which is attached hereto unless the following box is checked:

- ☒ was filed on 09.27.2005 as United States  
Application Number 10/550.781 or PCT  
International Application Number  
\_\_\_\_\_ and was amended on  
\_\_\_\_\_ (if applicable).

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56.

I hereby claim foreign priority under Title 35, 119(a)-(d) or § 365(b) of any foreign application(s) for patent or inventor's certificate, or § 365(a) of any PCT International application which designated at least one country other than the United States, listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate, or PCT International application having a filing date before that of the application on which priority is claimed.

## German Language Declaration.

Prior foreign applications  
Priorität beansprucht

## Priority Claimed

10314406.4(Number)  
(Nummer)DE(Country)  
(Land)28.03.2003(Day Month Year Filed)  
(Tag Monat Jahr eingereicht)☒  
Yes  
Ja☐  
No  
Nein(Number)  
(Nummer)(Country)  
(Land)(Day Month Year Filed)  
(Tag Monat Jahr eingereicht)☐  
Yes  
Ja☐  
No  
Nein(Number)  
(Nummer)(Country)  
(Land)(Day Month Year Filed)  
(Tag Monat Jahr eingereicht)☐  
Yes  
Ja☐  
No  
Nein(Number)  
(Nummer)(Country)  
(Land)(Day Month Year Filed)  
(Tag Monat Jahr eingereicht)☐  
Yes  
Ja☐  
No  
Nein

Ich beanspruche hiermit die mir unter Title 35, US-Code, § 120 zustehenden Vorteile aller unten aufgeführten US-Patentanmeldungen bzw. § 365(c) aller PCT internationalen Anmeldungen, welche die Vereinigten Staaten von Amerika benennen, und erkenne, insofern der Gegenstand eines jeden früheren Anspruchs dieser Patentanmeldung nicht in einer US-Patentanmeldung, bzw. PCT internationalen Anmeldung in in einer gemäß dem ersten Absatz von Title 35, US-Code, § 112 vorgeschriebenen Art und Weise offenbart wurde, meine Pflicht zur Offenbarung jeglicher Informationen an, die zur Prüfung der Patentfähigkeit in Einklang mit Title 37, Code of Federal Regulations, § 1.56 von Belang sind und die im Zeitraum zwischen dem Anmeldetag der früheren Patentanmeldung und dem nationalen oder im Rahmen des Vertrags über die Zusammenarbeit auf dem Gebiet des Patentwesens (PCT) gültigen internationalen Anmeldetags bekannt geworden sind.

I hereby claim the benefit under Title 35, United States Code, § 120 of any United States application(s), or § 365(c) of any PCT International application designating the United States, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56 which became available between the filing date of the prior application and the national or PCT International filing date of this application.

(Application Serial No.)  
(Anmeldeseriennummer)(Filing Date D, M, Y)  
(Anmeldedatum T, M, J)(Status)  
(patentiert, anhängig,  
aufgegeben)(Status)  
(patented, pending,  
abandoned)(Application Serial No.)  
(Anmeldeseriennummer)(Filing Date D, M, Y)  
(Anmeldedatum T, M, J)(Status)  
(patentiert, anhängig,  
aufgeben)(Status)  
(patented, pending,  
abandoned)

Ich erkläre hiermit, dass alle in der vorliegenden Erklärung von mir gemachten Angaben nach bestem Wissen und Gewissen der Wahrheit entsprechen, und ferner dass ich diese eidesstattliche Erklärung in Kenntnis dessen ablege, dass wissentlich und vorsätzlich falsche Angaben oder dergleichen gemäß § 1001, Title 18 des US-Code strafbar sind und mit Geldstrafe und/oder Gefängnis bestraft werden können und dass derartige wissentlich und vorsätzlich falsche Angaben die Rechtswirksamkeit der vorliegenden Patentanmeldung oder eines aufgrund deren erteilten Patentes gefährden können.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.



## German Language Declaration

VERTRETUNGSVOLMACHT: Als benannter Erfinder beauftrage ich hiermit den (die) nachstehend aufgeführten Patentanwalt (Patentanwälte) und/oder Vertreter mit der Verfolgung der vorliegenden Patentanmeldung sowie mit der Abwicklung aller damit verbundenen Angelegenheiten vor dem US-Patent- und Markenamt (Name(n) und Registrationsnummer(n) auflisten)

POWER OF ATTORNEY: As a named inventor, I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith: (list name and registration number)

Customer No. 22116

And I hereby appoint

John P. Musone Reg. No. 44,961,  
Daniel J Staudt Reg. No. 34,733,  
Erik C. Swanson Reg. No. 40,194

Send Correspondence to:

Siemens Corporation  
Intellectual Property Departement  
170 Wood Avenue South  
Iselin, NJ 08830

Telefongespräche bitte richten an:  
(Name und Telefonnummer)

Direct Telephone Calls to: (name and telephone number)

Elsa Keller

(732) 321 - 3026

|   |       |   |                         |
|---|-------|---|-------------------------|
| Voller Name des einzigen oder ursprünglichen Erfinders:<br><b>Wolfgang Klumpp</b> |       | Full name of sole or first inventor:<br><b>Wolfgang Klumpp</b>    |                         |
| Unterschrift des Erfinders  | Datum | Inventor's signature<br><i>Wolfgang Klumpp</i>                    | Date<br><b>28.9.05</b>  |
| Wohnsitz:<br><b>Achern, GERMANY</b>   |       | Residence:<br><b>Achern, GERMANY</b>                              |                         |
| Staatsangehörigkeit:<br><b>DE</b>   |       | Citizenship:<br><b>DE (GERMANY)</b>                               |                         |
| Postanschrift:<br><b>Kappelgasse 5</b>  |       | Post Office Address:<br><b>Kappelgasse 5</b>                      |                         |
| <b>77855 Achern</b>   |       | <b>77855 Achern</b>   |                         |
| <b>GERMANY</b>  |       | <b>GERMANY</b>  |                         |
| Voller Name des zweiten Miterfinders (falls zutreffend):<br><b>Willi Maier</b>    |       | Full name of second joint inventor, if any:<br><b>Willi Maier</b> |                         |
| Unterschrift des Erfinders  | Datum | Inventor's signature<br><i>Willi Maier</i>                        | Date<br><b>27.09.05</b> |
| Wohnsitz:<br><b>Oppenau, GERMANY</b>  |       | Residence:<br><b>Oppenau, GERMANY</b>                             |                         |
| Staatsangehörigkeit:<br><b>DE</b>   |       | Citizenship:<br><b>DE (GERMANY)</b>                               |                         |
| Postanschrift:<br><b>Industriestr. 4</b>  |       | Post Office Address:<br><b>Industriestr. 4</b>                    |                         |
| <b>77728 Oppenau</b>  |       | <b>77728 Oppenau</b>  |                         |
| <b>GERMANY</b>  |       | <b>GERMANY</b>  |                         |

(Bitte entsprechende Informationen und Unterschriften im Falle von dritten und weiteren Miterfindern angeben).

(Supply similar information and signature for third and subsequent joint inventors).

|  |       |                                     |          |
|--|-------|-------------------------------------|----------|
| Voller Name des dritten Miterfinders:  |       | Full name of third joint inventor:  |          |
| Wigand Schneiderheinze                 |       | Wigand Schneiderheinze              |          |
| Unterschrift des Erfinders             | Datum | Inventor's signature                | Date     |
|  |       | <i>Wigand Schneiderheinze</i>       | 27.03.05 |
| Wohnsitz                               |       | Residence                           |          |
| Leimersheim, GERMANY                   |       | Leimersheim, GERMANY                |          |
| Staatsangehörigkeit                    |       | Citizenship                         |          |
| DE                                     |       | DE (GERMANY)                        |          |
| Postanschrift                          |       | Post Office Address                 |          |
| Otterbachstr. 10                       |       | Otterbachstr. 10                    |          |
| 76774 Leimersheim<br>GERMANY           |       | 76774 Leimersheim<br>GERMANY        |          |
| Voller Name des vierten Miterfinders:  |       | Full name of fourth joint inventor: |          |
| Unterschrift des Erfinders             |       | Inventor's signature                |          |
| Datum                                  |       | Date                                |          |
| Wohnsitz                               |       | Residence                           |          |
| Staatsangehörigkeit                    |       | Citizenship                         |          |
| Postanschrift                          |       | Post Office Address                 |          |
|  |       |                                     |          |
| Voller Name des fünften Miterfinders:  |       | Full name of fifth joint inventor:  |          |
| Unterschrift des Erfinders             |       | Inventor's signature                |          |
| Datum                                  |       | Date                                |          |
| Wohnsitz                               |       | Residence                           |          |
| Staatsangehörigkeit                    |       | Citizenship                         |          |
| Postanschrift                          |       | Post Office Address                 |          |
|  |       |                                     |          |
| Voller Name des sechsten Miterfinders: |       | Full name of sixth joint inventor:  |          |
| Unterschrift des Erfinders             |       | Inventor's signature                |          |
| Datum                                  |       | Date                                |          |
| Wohnsitz                               |       | Residence                           |          |
| Staatsangehörigkeit                    |       | Citizenship                         |          |
| Postanschrift                          |       | Post Office Address                 |          |
|  |       |                                     |          |

(Bitte entsprechende Informationen und Unterschriften im Falle von dritten und weiteren Miterfindern angeben).

(Supply similar information and signature for third and subsequent joint inventors).



UNITED STATES PATENT and TRADEMARK OFFICE

20 NOV 2008

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
P.O. Box 1450  
ALEXANDRIA, VA 22313-1450  
www.uspto.gov

Siemens Corporation  
Intellectual Property Department  
170 Wood Avenue South  
Iselin, NJ 08830

BIT  
In re Application of  
WOLFGANG et al  
Application No.: 10/550,781  
PCT No.: PCT/DE2003/003288  
Int. Filing Date: 02 October 2003  
Priority Date: 28 March 2003  
Attorney's Docket No.: 2003P04656WOUS  
For: TEMPERATURE COMPENSATION ELEMENT  
FOR A CONNECTION UNIT

DECISION ON

PETITION UNDER

37 CFR 1.181

This Decision is in response to applicants' "SUPPLEMENTAL REQUEST TO WITHDRAW THE HOLDING OF ABANDONMENT" filed on 08 September 2008, which is being treating as a renewed petition under 37 CFR 1.181 requesting that the above-identified application's declaration was timely filed on 07 August 2006 by facsimile.

### BACKGROUND

In a decision from this on Office on 26 August 2008, the petition filed on 26 June 2008 under 37 CFR 1.181 was dismissed. The decision stated that applicants did not meet item (2) under 37 CFR 1.8(b) because no copy of the executed declaration filed on August 7, 2006 has been filed.

On 08 September 2008, petitioner filed the current renewed petition with included a copy of the executed declaration filed on August 7, 2006.

### DISCUSSION

A petition under 37 CFR 1.181 filed under 37 CFR 1.8(b) Certificated of mailing or transmission must be accompanied by:

(b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

Application No.: 10/550,781

2

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

Although petitioner satisfied item (2), item (3) is now not satisfied under 37 CFR 1.8(b).

With regard to item (2) above it is satisfied, the present petition includes a copy of the previously transmitted correspondence and certificate of transmission, a copy of the executed declaration filed on August 7, 2006 has been filed.

With regard to item (3) above, section 512 of the MPEP states the following: "If the person signing the statement did not sign the certificate of mailing, then the person signing the statement should explain how they have firsthand knowledge of the previous timely mailing or transmission." The renewed petition, which is signed by John P. Musone, states that "Applicants <sup>claiming</sup> submit a copy of the executed declaration filed on August 7, 2006 by the person who executed the Certificate of Transmission under 37 CFR 1.8." However, Mr. Musone is not the person who executed the Certificate of Transmission for the August 7, 2006 transmission, and he does not state "how he has firsthand knowledge of the previous mailing or transmission," as required by the MPEP (the renewed petition does not include a confirming statement from Ann Hickey, the person who signed the Certificate of Transmission).

Based on the above, the present submission does not satisfy the requirement of 37 CFR 1.8(b)(3).

Accordingly, on the present record it cannot be concluded that the declaration was included with the present petition were originally filed by facsimile on August 7, 2006 as a timely response to the Notification Of Missing Requirements.

### CONCLUSION

For the reasons discussed above, applicants' petition to withdraw the holding of abandonment under 37 CFR 1.181 and 1.8(b) is **DISMISSED** without prejudice.

The application remains **ABANDONED**.

Any request for reconsideration must be filed within **TWO (2) MONTHS** of the mail date of the present decision and must include the materials required to satisfy 37 CFR 1.8(b)(3), as discussed above and in the MPEP. The reconsideration request should include a cover letter entitled "Second Renewed Petition Under 37 CFR 1.181".

Application No.: 10/550,781

3

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



Rafael Bacares

PCT Legal Examiner

PCT Legal Office

Telephone: (571) 272-3276

Facsimile: (571) 273-0459

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\*\*\* RX REPORT \*\*\*  
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RECEPTION OK

|                   |             |
|-------------------|-------------|
| TX/RX NO          | 7212        |
| RECIPIENT ADDRESS | 4077366440  |
| DESTINATION ID    |             |
| ST. TIME          | 01/21 14:23 |
| TIME USE          | 01'35       |
| PGS.              | 13          |
| RESULT            | OK          |